

ORAL ARGUMENT NOT YET SCHEDULED
**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Environmental Defense Fund, Natural
Resources Defense Council, and Sierra
Club,

Petitioners,

v.

U.S. Environmental Protection Agency
and Michael S. Regan, in his capacity as
Administrator, U.S. Environmental
Protection Agency,

Respondents.

No. 18-1149 (consolidated with
Nos. 21-1033, 21-1039, and 21-
1259)

EPA's Status Report

As ordered by the Court on March 14, 2024, EPA files this status report.

Petitioners seek review of three related actions under the Clean Air Act: (1)

EPA's memorandum "Project Emissions Accounting Under the New Source

Review Preconstruction Permitting Program," 83 Fed. Reg. 13,745 (Mar. 30,

2018); (2) EPA's rule "Prevention of Significant Deterioration (PSD) and

Nonattainment New Source Review (NNSR): Project Emissions Accounting," 85

Fed. Reg. 74,890 (Nov. 24, 2020); and (3) EPA's action "Denial of Petition for

Reconsideration and Administrative Stay: ‘Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting,’” 86 Fed. Reg. 57,585 (Oct. 18, 2021). The three challenges have been consolidated and kept in abeyance. Order (Mar. 14, 2024); *see also* Orders (Feb. 17, 2021; Aug. 30, 2021; Sept. 17, 2021; Nov. 15, 2021; Mar. 3, 2022; Sept. 21, 2023).

EPA has initiated a rulemaking process to review the November 2020 rule and to consider potential revisions to its New Source Review regulations that would address issues raised by some Petitioners in an administrative petition for reconsideration. The proposed rule, “Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Regulations Related to Project Emissions Accounting,” was published in May. 89 Fed. Reg. 36,870 (May 3, 2024). The comment period closed on July 2, 2024. EPA is currently reviewing comments and will take further action as appropriate.

EPA’s motion to govern is due on December 2, 2024. Order (Mar. 14, 2024).

Submitted on September 6, 2024.

/s/ Sue Chen

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Environment & Natural Resources
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Environmental Defense Section

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Certificate of Service

I certify that on September 6, 2024, I filed the foregoing with the Court's CMS/ECF system, which will notify each party.

/s/ Sue Chen
Sue Chen